IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 1588 of 2002
To
FIRST APPEAL No. 1594 of 2002

For Approval and Signature:

HONOURABLE MR.JUSTICE P.B.MAJMUDAR

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SPL.LAQ OFFICER AND ANOTHER
Versus
RAMBHA HIMATSINH ZALA AND ANOTHER

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Appearance :
MR RR MARSHALL for the appellant

Mr Munshi, for Mr AJ Patel for the respondents

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CORAM : HONOURABLE MR.JUSTICE P.B.MAJMUDAR

Date : 06/07/2006

ORAL JUDGMENT

All these appeals arise out of a common judgment rendered by Extra Assistant Judge, Mehsana in Land Acquisition Reference Cases Nos.824 of 2001 to 830 of 2001. By its judgment and order dated 15th December 2001 the Reference Court allowed the Land Reference Cases partly and the appellants were directed to pay additional amount of rent at the rate of Rs.2.10 per sq. meter over and above Rs.0.90 paisa per square meter awarded by the Special Land Acquisition Officer from the date of taking over the possession as well as interest at the rate of 9% for the additional amount of rent.

Being aggrieved by the aforesaid order of the Reference Court, the appellants who have acquired the land temporarily have preferred these appeals under Section 54 of the Land Acquisition Act.

On behalf of the appellants – acquiring body, the lands in question were temporarily acquired for its project work. The lands in question are situated at village Rantej, Taluka Becharaji, District Mehsana. The appellants acquired various lands which are agricultural lands for its Drilling Project. By way of provisional temporary acquisition the lands were accordingly acquired. On behalf of Deputy General Manager, ONGC a proposal for such temporary acquisition was moved on 11th June 1992 and subsequently the possession of the concerned lands was taken on 13.11.1992. The Special Land Acquisition Officer thereafter after hearing the claimants and after considering the evidence on record fixed Rs.0.90 paise per square meter as rent. The claimants being aggrieved by the said decision preferred aforesaid Reference before the District Court at Mehsana. According to the claimants, the appropriate assessment of the land in question should be Rs.5 per square meter as according to them it is a very fertile land. The learned Judge of

the Reference Court after considering the evidence on record and after hearing the parties awarded additional compensation Rs.2.10 per sq.meter.

During the course of hearing it is pointed out to the Court that O.N.G.C. has started to make the payment at Rs.2.50 per sq. meter and at Rs.3.75 per sq. meter from 1.1.1997 till January 2001. The learned Judge has made the said observations in paragraph 8 of the judgment. The learned Judge has stated that it may be because of administrative reasons of the Oil and Natural Gas Commission.

During the course of hearing it is pointed out to the Court that now lands in question are permanently acquired by the ONGC somewhere in October 2000. Therefore, as per the order of the Reference Court the appellant ONGC is required to comply with the same till permanent acquisition has taken place. The learned Counsel Mr Marshall submitted that the additional amount granted by the Court is on higher side as the same is granted without any rational basis by fixing the total amount at Rs.3 per Are instead of Rs.0.90 fixed by the Land Acquisition Officer. Learned advocate, Mr A.J.Patel submitted that looking to the small amount involved in these appeals, this Court is not required to interfere with the award.

I have heard both the learned advocates for the parties and I have also gone through the record and proceedings. I have also heard Mr ND Gohil, learned Assistant Government Pleader.

It is required to be noted that the land in question is situated in Mehsana District and as argued by Mr Patel the lands are fertile lands. The claimants were taking various agricultural crops also. The learned

Judge of the Reference Court has also relied upon the statement of Shri S.C. Shah, who was appearing as an advocate for the acquiring body. The said advocate has fairly stated before the trial Court that ONGC is paying Rs.2.50 to Rs.3.75 per sq. meter from 1.1.1997 till January 2001. In that view of the matter, the ONGC is now required to pay rent only for a limited period. Considering the potentiality of the land and the nature of the crops, etc. which the claimants used to cultivate the learned trial Judge fixed Rs.3 per square meter as compensation. However, in my view, the reasoning of the learned trial Judge is not very satisfactory one. In spite of that, these appeals are not required to be entertained on the ground that the amount involved in each of these appeals is small as per the table of the compilation. The learned Judge has granted additional compensation as under:-

Sr. No.	LAR Nos.	Block No.	Area in Sq.Meter	Additional Compensation	Net Amount
1	824/1	403/4 495/2	4102	2.10	8,740.20
2	825/1	483/5	2970	2.10	6,237
3	826/1	484	2440	2.10	5,124
4	827/1	485/1	710	2.10	1,491
5	828/1	483/1	530	2.10	1,113
6	829/1	494	1155	2.10	2,425.50
7	830/1	483/1	1304	2.10	2,738.40

Learned counsel Mr Marshal, however, submitted that the ONGC will have to bear larger financial burden as the amount is required to be paid with interest and if the amount is considered to be cumulatively, the financial burden will be more. However, individual appeals are filed for small claim. In that view of the matter, the refrerence is required to be

made to various judgments of this Court. The learned Single Judge of this Court in First Appeal No.1117 of 2003 has observed in paragraphs nos.3 and 4 as under:-

> *"3. It may be noted that learned single Judge of this Court as well as a Division Bench of this Court in number of matters have dismissed appeals filed by the appellant challenging the awards of the reference courts on the ground of smallness of the amount. The Division Bench of this Court (Coram: M.H. Kadri & C.K. Buch, JJ.) in First Appeal Nos.6765 of 1999 to 6804 of 1999 vide judgment dated 29.3.2000 has considered an amount of Rs.25,500/- awarded to the claimant, without considering other statutory benefits, as small amount. In the said judgment it has been observed that it is the consistent practice which is followed by various Division Benches of this Court that wherein claim involved in the Land References cases is less than Rs.35,000/-, appeal should be dismissed on the ground that it involves petty claim.*
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> *4. Applying the principles laid down by the Division Bench of this Court in the judgment recorded in First Appeal Nos.6765 of 1999 to 6804 of 1999 to the facts of the present case, in the instant case, the original amount awarded to the respondent is Rs.11,425/- plus statutory benefits, which comes in all to Rs.16,223.50 and, therefore, this amount being a small amount, the appeal deserves to be dismissed on the ground of petty claim."*

It is not in dispute that the additional amount for which the appeal is filed in the Court is small amount and considering the decision of this Court referred to above these appeal deserve to be dismissed. Mr Gohil, learned Assistant Government Pleader has submitted that in a given case if the amount involved is less, the Appellate Court may not interfere with the award of the District Court.

It is, however, made clear that dismissal of these appeals or the judgment of the Reference Court may not be treated as a precedent in regard to future cases as each case has to be decided on its own merits and on its own evidence.

(***P.B.Majmudar, J.***)

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